IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2578 OF 2007

M/s Bhimale and Sons & Ors ..... Petitioners.

V/s

Pune Municipal Corporation
and Ors. ..... Respondents.

Mr. V.G. Peshave for the Petitioners.

Mr. R.G. Ketkar for Respondent No.1.

Mr. V.G. Gokhale for Respondent No.2.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 17th December, 2007.

P.C.:

1. The learned Counsel appearing on behalf of Petitioners states that, for the present, he does not want to press reliefs claimed in prayer clauses (b), (c) and (d). He restricts his Petition to the relief claimed in prayer clause (a).

2. We find that the reason that has been given in communication dated 1/12/2006 by the Municipal Corporation is totally unacceptable. Merely because in the building plan submitted by the owner, the portion occupied by the Petitioners - tenants is in front margin and is shown as portion to be demolished, permission could not have been denied.

3. In our opinion, the following order would meet the ends of justice:-

O R D E R

The Corporation is directed to consider the application made by the Petitioners for repair of their shed afresh in accordance with law. The Corporation shall not reject the permission for repairs relying on the map submitted by the landlord which is supposed to have been sanctioned by the Corporation. It is also made clear that, in case, permission to repair is granted, it will not come in the way of the Corporation acquiring the land compulsorily, if it is required to do so. In that event, all challenges that may be available to the Petitioners in law can be raised by them. Petition is disposed of.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)